

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED
AND VIA ELECTRONIC MAIL

March 7, 2011

Mr. Gary R. Witkowski
United States Environmental Protection Agency
Region 7
Neal Smith Federal Building
210 Walnut Street, Room 473
Des Moines, Iowa 50309-2109

AWMD / WEMM
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RECEIVED

Re: Response to Preliminary Findings From February 23, 2011, RCRA
Inspection of Mycogen Seeds Quality Lab

Dear Mr. Witkowski:

By this letter Dow AgroSciences ("Dow" or "the company") responds to the preliminary findings from the U.S. Environmental Protection Agency's ("EPA" or "the Agency") February 23, 2011, audit of Dow's Mycogen Seeds Quality Lab ("Mycogen") in Marshalltown, Iowa. The inspection, conducted under the authority of the Resource and Recovery Act ("RCRA"), identified five preliminary findings. While Dow does not by this letter admit to these findings, the company is responding to each of the preliminary findings and providing supporting information for the final compliance determination.



For findings #3 and #4, the information below describes how the site has corrected the items noted by EPA in the inspection, and the steps it has taken to ensure that the issues will not reoccur. For findings #1, #2, and #5, Dow intends to demonstrate that it was in substantive compliance with these regulations at the time of the audit and disputes these findings as violations of law.

The Mycogen facility is a small quantity generator with RCRA ID number IAR000500439. As such, it is allowed under the RCRA regulations to accumulate its waste on-site in tanks or containers for 180 days or less, provided it complies with other standards applicable to small quantity generators.¹ The preliminary findings identified by EPA in the inspection allege violation of five of these regulatory standards. These findings – as identified in the Notice of Preliminary Findings left behind by EPA – are as follows:

1. “Failure to mark waste lamp with the following” “Universal Waste Lamps” or “Waste Lamps” or “Used Lamps”. 40 CFR 273.14(e)
2. Failure to track accumulation time of Universal Waste Lamps. 40 CFR 273.15(c)
3. Failure to post the name and telephone number of the emergency coordinator next to telephones. 40 CFR 262.34(d)ii(a)²

¹ 40 C.F.R. Section 262.34(d).

² We assume EPA meant to reference 40 CFR Section 262.34(d)(5)(ii)(A).

4. Failure to post the location of spill control materials next to telephones. 40 CFR 262.34(d)ii(b)³
5. Failure to store hazardous waste in a closed container. 40 CFR 262.34(d)(z) referencing 40 CFR 265.173(a)”

Corrective Actions Taken:

Dow (where required) has corrected each of the issues identified by EPA in its preliminary findings and has taken steps to ensure that these issues will not arise again

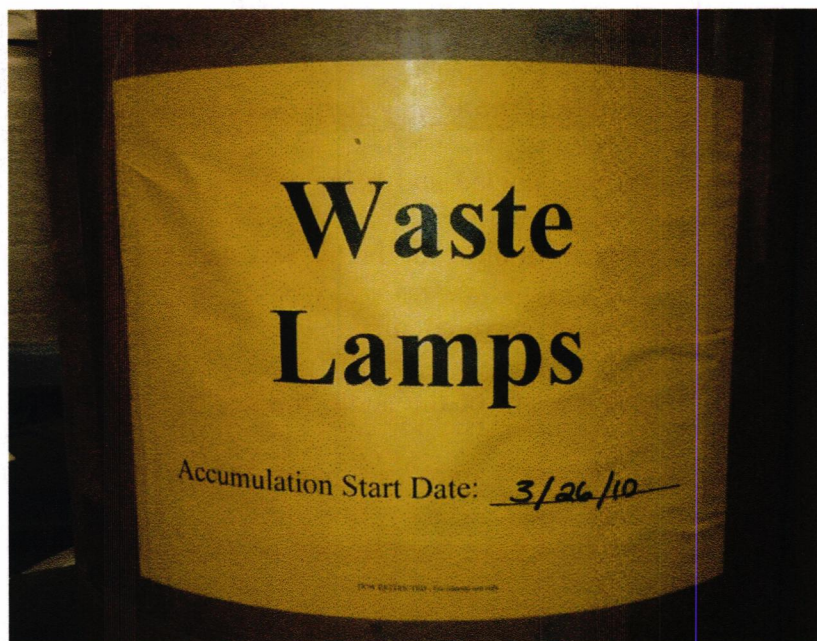
Preliminary Finding 1

Dow disputes this finding - At the time of the agency audit every Universal Waste Container at the Dow Mycogen Facility was labeled and being managed as Universal Waste. Every container accumulating spent fluorescent bulbs was labeled with the descriptor “Waste Fluorescent Bulbs” and covered under the Universal Waste Management Procedure at the facility. As a result of the audit, the site did modify the container labels to use the descriptor “Waste Lamps” to more closely follow the regulatory guidance in this area. Site personnel have been trained on this modification. See attached photograph.

³ We assume EPA meant to reference 40 CFR Section 262.34(d)(5)(ii)(B).

Preliminary Finding 2

Dow disputes this finding - The facility is a small quantity handler of Universal Waste and accumulates bulbs for off-site recycling as prescribed under 40 CFR 273.15(c)(6). The practice at the facility is to dispose of ALL accumulated bulbs per the facility practice referenced above. Accordingly the accumulation date for any accumulated bulbs is documented to be the date of the previous manifest, as that is the earliest date possible for the storage container to accumulate spent bulbs. To provide a more visible means of documenting this date, the facility now supplements this practice by putting the duplicate date on each storage container. Site personnel have been trained on this expanded procedure. See attached photograph.



Preliminary Findings 3 and 4

Mycogen has updated the emergency response plan to include a site diagram with the emergency coordinator's contact information and the location of all spill kits. Mycogen has also posted the site diagram adjacent to each phone in all office and lab locations.

Preliminary Finding 5

Dow disputes this finding. At the time of the inspection the container at issue in this finding (a chemical carboy) was located in a fume hood and in use by laboratory personnel. As the inspector entered that section of the lab, the lab coordinator halted the process to allow the inspector access to the area. The laboratory personnel stepped back and exited, inadvertently leaving the carboy with a funnel in the opening instead of being capped. As the inspector returned later in the day he observed that the technicians had finished the process and that the carboy had been closed. It is Mycogen's plant requirement that employees close the carboy if the process is halted for any reason. All other waste containers were noted as closed during the audit, thus Dow does not believe that a preliminary finding is appropriate for this abnormal circumstance. Nonetheless, Dow has trained its personnel in this area to ensure that the carboy (or any other hazardous waste container) remain closed unless waste is being added to or removed from the container.



Dow appreciates the opportunity to respond to these preliminary findings. This letter demonstrates that the Mycogen facility has promptly corrected the findings and has taken steps to ensure that the issues identified by EPA do not arise again. Dow thus believes it is inappropriate for EPA to take any further enforcement action against the Mycogen facility.

Letter to Mr. Gary Witkovski
March 7, 2011
Page 7

Please let me know if you have any questions or require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon D. Lehman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jon D. Lehman

North American Seeds

Quality Control Leader